

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No 172 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE N.J.PANDYA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?

NIRAJ SHIRISHBHAI DESAI

Versus

STATE OF GUJARAT

Appearance:

MR NITIN M AMIN for Petitioner

MR SA PANDYA, ADDL.PUBLIC PROSECUTOR for Respondent No. 1

CORAM : MR.JUSTICE N.J.PANDYA

Date of decision: 10/07/97

ORAL JUDGEMENT

The ld. Metropolitan Magistrate, Court No.11, while dealing with Application under Section 451 of the Code of Criminal Procedure, in connection with DCB Police Station Crime Reg. No.6 of 1996, for offences under Section 420 etc., has rejected the prayer on the ground that the muddamal article, Maruti Esteem Car was not

taken possession of from the petitioner. By and large, this was the consideration of the trial Court while dealing with application for return of muddamal.

However, when the petitioner who is a finance Company has itself lodged a private complaint which was sent for inquiry, resulting into the said DCB Police Station Crime Reg. No.6 of 1996, the trial Court ought to have seen that the petitioner itself has interest in the Car and it is not merely that of a person seeking possession, but a lessor trying to get back his property in respect of the crime which has been committed.

This aspect having been lost sight of, obviously, the prayer for return of muddamal article, Maruti Esteem Car, required to be granted and the order of the trial Court is required to be set aside. Neither the person from whom the muddamal article is seized nor the police interested in retaining the same has to be found from the record. Therefore, the petition is allowed. The muddamal article, Maruti Esteem Car having Regn. No. GJ-1PP-574 having Engine No.G,3-B,N-N517638 FS and Chasis No.M.A.3EBD-21500317771 shall be returned to the petitioner on condition of the said Car being made available as and when required by the trial Court and further on condition that it shall not be alienated or transferred in any manner, without the prior permission of the Court. Rule is made absolute accordingly.

sreeram.